

**FILED**

UNITED STATES COURT OF APPEALS

DEC 23 2008

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK OF COURT  
U.S. COURT OF APPEALS

KENNETH LAKES,

Plaintiff - Appellant,

v.

MICHAEL CHERTOFF, Secretary of  
Homeland Security, Customs and Border  
Protection, in his official capacity,

Defendant - Appellee.

No. 08-16956

D.C. No. 3:05-cv-04874-MMC

07-cv-01792-MMC

Northern District of California,  
San Francisco

**ORDER**

A review of the file in this case reveals that the appellant has failed to perfect the appeal as prescribed by the Federal Rules of Appellate Procedure.

Pursuant to Ninth Circuit Rule 42-1, this appeal is dismissed for failure to file the opening brief on appeal in this case.

A copy of this order sent to the district court shall constitute for the mandate of this court.

FOR THE COURT:

Molly C. Dwyer  
Clerk of Court

By: Wendy Li  
Deputy Clerk